IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Bail Appl..No. 5090 of 2007()

[CRIME NO.1200/07 OF PERUMBAVOOR POLICE STATION]

PETITIONER/IST ACCUSED

K.C.JOSEPH, AGED 53 YEARS, S/O.CHUMMAR
MAR MAREY LUCKY CENTRE, PERUMBAVOOR.

BY ADV. SRI.K.I.SAGEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY ITS CIRCLE INSPECTOR OF POLICE,
PERUMBAVOOR POLICE STATION (CRIME NO.1200/07)
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5090 of 2007

Dated this the 23rd day of August 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused. He faces allegations under Section 420 I.P.C. The crux of the allegations against the petitioner is that the de facto complainant was deceived and threatened at a lottery ticket sales centre by the petitioner and others.

2. The crux of the allegations is that the de facto complainant went to the lottery agency of the petitioner. He parted with money and wanted to take his chance in a single digit lottery which was being conducted. Money was collected from the de facto complainant and certain numbers were given by him. He was told that if waits, he will know the result of the lottery, shortly. He waited there in the hope of knowing the result, for a long time. The persons at the centre had no serious intention of conducting any lottery. After collecting the money from the de facto complainant, no results were announced. Later, the de facto complainant was threatened and driven away.

The de facto complainant lodged a complaint before the police. Investigation is in progress. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the allegations raised are totally false. The petitioner had earlier sought protection of this court when he was harassed by police in the running of the lottery agency. Enraged by the conduct of the petitioner, in approaching this court, the present false allegations have been raised by the police making use of the convenient de facto complainant. It is submitted that the petitioner is absolutely innocent. Anticipatory bail may, in these circumstances, be granted to the petitioner, it is prayed.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the indications clearly show that there is a calculated attempt to defraud gullible persons like the petitioner who went to the lottery agency in the hope that they can try their luck.

5. I have considered all the relevant inputs. Considering the nature of the contentions, the learned Public Prosecutor was requested to place the case diary for my perusal. I have perused

the same. Having considered all the relevant circumstances, I find merit in the opposition by the learned Public Prosecutor. I am satisfied in the facts and circumstances of this case that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

6. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007